

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

PETE COFFEY, JR., )  
vs. )  
Petitioner, )  
vs. ) Case No. CIV-05-1086-M  
CAPTAIN E. WILSON, )  
Respondent. )

**ORDER**

On August 21, 2006, United States Magistrate Judge Doyle W. Argo issued a Report and Recommendation in this action brought pursuant to 28 U.S.C. § 2254, seeking a writ of habeas corpus. The Magistrate Judge recommended that petitioner's motion to amend be denied and that the second amended petition for writ of habeas corpus be denied. Petitioner was advised of his right to file an objection to the Report and Recommendation by September 11, 2006. On September 6, 2006, petitioner filed his objection.

In his objection, petitioner initially objects to the Magistrate Judge's recommendation to deny his motion to amend. Specifically, petitioner asserts that he did not understand that dismissing his initial petition to allow him time to exhaust all of his claims would not result in a time bar, and that if he had, he would not have persisted in proceeding with the instant action. Having carefully reviewed the court file in this case, the Court finds that because petitioner had twice been advised that there was no time issue regarding his claims, petitioner should have understood that dismissing his initial petition would not result in a time bar. *See* September 28, 2005 Report and Recommendation [docket no. 8] at 5-6 ("In this case, however, Petitioner is not currently facing a time issue. . . . Accordingly, the undersigned concludes that Petitioner's current situation does not present any danger that dismissal of the instant petition in light of its status as a mixed petition will

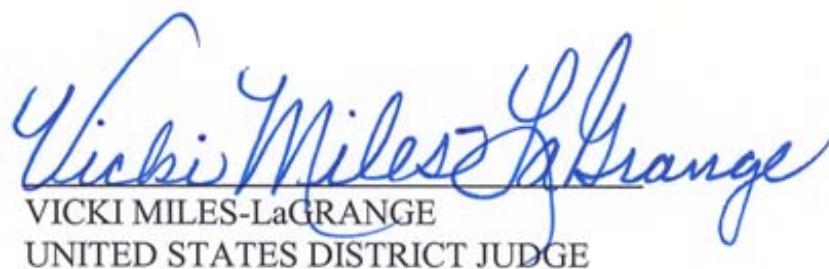
impact his ability to timely seek relief under 28 U.S.C. § 2254.”); December 5, 2005 Order [docket no. 10] at 1 (“there is no timeliness problem for petitioner”). Additionally, for all of the reasons set forth in the Report and Recommendation, the Court agrees with the Magistrate Judge that petitioner has acted in bad faith and with dilatory motives and that, accordingly, his motion to amend should be denied.

In his objection, petitioner also objects to the Magistrate Judge’s recommendation regarding the merits of his claims. Upon de novo review, and for the reasons set forth in the Report and Recommendation, the Court finds that the second amended petition for writ of habeas corpus should be denied.

Accordingly, the Court:

- (1) ADOPTS the thorough and well-reasoned Report and Recommendation issued by the Magistrate Judge on August 21, 2006;
- (2) DENIES petitioner’s motion to amend [docket no. 33];
- (3) DENIES petitioner’s second amended petition for writ of habeas corpus; and
- (4) ORDERS that judgment in favor of respondent issue forthwith.

**IT IS SO ORDERED this 19th day of September, 2006.**



VICKI MILES-LAGRANGE  
UNITED STATES DISTRICT JUDGE